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February 10, 2023

Via ECF

The Honorable Alvin K. Hellerstein
United States District Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

*Served
2-14-23
Alvin K. Hellerstein*

Re: Bellin v. Zucker et al., No. 19-cv-05694 (AKH) (RWL)

Dear Judge Hellerstein:

The New York State Office of the Attorney General represents the defendant James V. McDonald,¹ in his official capacity as Acting Commissioner of the New York State Department of Health (“State Defendant”) in the above-referenced matter. Pursuant to the schedule set by the Court (ECF No. 130), State Defendant has fully briefed and served their papers in connection with their motion for summary judgment.

Pursuant to Rule 4(B)(ii) of Your Honor’s Individual Rules, the State Defendant respectfully requests permission from the Court for leave to file an unredacted version of Uniform Assessment System for New York (“UAS-NY”) Community Health Assessment Reference Manual, Feb. 2022 edition under seal. All parties have consented to this request.

The document that State Defendant requests to file under seal is State Defendant’s Exhibit C bearing bates stamps DOH 0001516 - DOH 0001623, which is a reference manual containing instructions on the usage of the Community Health Assessment portion of the UAS-NY software application. Both the UAS-NY software and the reference manual contain intellectual property subject to a copyright owned by the research company InterRai. State Defendant has entered into a licensing agreement with InterRai that prohibits public dissemination of this information. Prior to the reference manual being produced during discovery, InterRai granted State Defendant permission to produce it with a “confidential” marking pursuant to paragraph 5(a) of the protective order (ECF No. 86) due to the presence of trade secrets in the document. The sealing of this document is narrowly tailored in order to protect

¹ Pursuant to Federal Rule of Civil Procedure 25(d), James V. McDonald, in his official capacity as Acting Commissioner of the New York State Department of Health, is automatically substituted for Howard A. Zucker following his appointment on January 1, 2023.

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InterRai's copyrighted material. See, e.g., Lugosch v. Pyramid Co. of Onondaga, 435 F.3d 110, 119-20 (2d Cir. 2006).

Pursuant to Your Honor's Individual Rules and Section 6 of the ECF Rules & Instructions for Filing Under Seal and Redacting in Civil and Miscellaneous Cases, an unredacted version of State Defendants' Exhibit C has been separately filed under seal.

Thank you for your consideration on this matter.

Respectfully submitted,

/s/ Celina D. Rogers
Celina D. Rogers
Patrick Baker
Assistant Attorneys General
Counsel for State Defendant

cc: **Via ECF**
Counsel of Record